HIGH COURT OF CHHATTISGARH, BILASPUR

(DIVISION BENCH)

CORAM: **HON'BLE SHRI JAGDISH BHALLA, ACTING C.J. &**
HON'BLE SHRI DILIP RAOSAHEB DESHMUKH, J.

Writ Appeal (PR) No.3766 of 2007

WA - 145/07

Appellant Petitioner : Chatur Kumar Gajabhiye, aged about 52 years, son of Late Chuni Lal Gajabhiye, occupation, S.I., resident of police Station Jaijepur, District Janjgir-Champa (C.G.)

-Versus-

Non-appellant Respondents

: 1. State of Chhattisgarh, through – The Secretary, Mantralay Deptt of Home Affairs, Dau Kalyan Singh Bhawan, Raipur (C.G.)
: 2. The State Police Establishment Board, through – Its President.
: 3. The Director General of Police, Police Head Quarter, Raipur (CG)
: 4. The High Level Caste Scrutiny Committee, State of Chhattisgarh in the Premises of Pt. Ravishankar Shukla University, Raipur (C.G.)
: 5. The Superintendent of Police Distt. Janjgir-Champa (C.G.)
: 6. The Station House Officer, Police Station Jaijaipur, Distt. Janjgir – Champa (C.G.)
: 7. V.K.Damalahe, son of not known, Ex. Additional Director General of Police, Madhya Pradesh, Bhopal.
: 8. Bhau Ram Damalahe, son of Not known, Ex. Distt. Suptdg. Of Police, Madhya Pradesh, Bhopal.

Writ Appeal U/S 2 (1) of the C.G. High Court (Appeal to Division Bench) Act, 2006

Present:
Shri Amit Sharma, Counsel for the appellant/petitioner.
Shri Vinay Harit, Dy. Advocate General for the State.

ORAL ORDER
(Passed on 25.06.2007)

The following oral order of the Court was passed by **Jagdish Bhalla, Acting C.J.**

The writ appeal is directed against the judgment and order dated 04.04.2007 passed by Hon'ble Single Judge wherein Hon'ble Single Judge has dismissed the writ petition No. 1970 of 2007 filed by the appellant herein *inter alia* challenged his transfer from one district to another district.

Time and again the Apex Court has observed that the transfer order can be challenged only on the ground of either violation of law or strong case of *mala fide*. There is no allegation as far as violation of law is concerned. However, learned counsel for the appellant states that there is case of *mala fide* on behalf of the Director General of Police, respondent No.3. However, instead of impleading the Director General of Police, the appellant had impleaded respondents No.7 & 8 – Ex. Additional Director General of Police and Ex. Distt. Superintendent of Police of Madhya Pradesh, Bhopal. The appointing authority of the Sub-Inspector is the Director General of Police.

We have heard the learned counsel for the parties and gone through the judgment and order passed by the Hon'ble Single Judge.

Learned counsel for the appellant failed to substantiate the case of *mala fide* before this Court. Mere making an allegation of *mala fide* will not be the ground for the interference by this Court. We have been further

informed by the counsel for the appellant that the appellant had already joined at his place of transfer on 12th June of 2007.

We are of the considered opinion that in case the appellant wanted to rely upon the allegation of *mala fide*, it was mandatory for him to implead Director General of Police by name as respondent, as required under law so that he would have in a position to defend his case.

We are in agreement with the judgment and order passed by the learned Single Judge. The appeal is dismissed.

Sd/-
Ag. Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge

Anjani